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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/532,620

11/24/2006

Helmuth Eggers

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4762

41288

7590

03/29/2011

PATENT CENTRAL LLC

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EXAMINER

PHAM, TOAN NGOC

ART UNIT

PAPER NUMBER

2612

MAIL DATE

DELIVERY MODE

03/29/2011

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/532,620	<b>Applicant(s)</b> EGGERS ET AL.	
	<b>Examiner</b> Toan N. Pham	<b>Art Unit</b> 2612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 10-12 is/are rejected.
- 7) ☒ Claim(s) 8 and 9 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the area" and "the vehicle" in line 3; "the evaluation" in line 5; "the components" in line 7; and "the basis" in line 8. There is insufficient antecedent basis for this limitation in the claim.

Claim 4 recites the limitation "the situation" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 5 recites the limitation "the situation" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 6 recites the limitation "the situation" in line 2; and "the driver" in line 5. There is insufficient antecedent basis for this limitation in the claim.

Claim 7 recites the limitation "the situation" in line 3; "the optical display" in line 4; and "the driver" in line 5. There is insufficient antecedent basis for this limitation in the claim.

Claim 8 recites the limitation "the situation" in line 3; "the driver" in line 4; and "the traffic" in line 6. There is insufficient antecedent basis for this limitation in the claim.

Claim 9 recites the limitation "the situation" in line 3; "the optical display" in line 5; and "the operating conditions" in line 6. There is insufficient antecedent basis for this limitation in the claim.

Claim 10 recites the limitation "the area" and "the vehicle" in line 3; "the components" in line 7; and "the basis" in line 8. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-3 and 10-12 are rejected under 35 U.S.C. 102(e) as being anticipated by Fohl et al. (US 6,429,429) (Fohl).

Regarding claims 1 and 10: Fohl discloses a night vision system comprising an illumination unit (14) for the illumination of the area surrounding the vehicle, an image recording unit (20) for the recording of data from the surrounding area, an image processing unit (20) for the evaluation of data from the surrounding area, wherein components of the night vision system are operated in different constellations on the basis of at least one control signal (col. 2, lines 53-67; col. 4, line 53-col. 5, line 36).

Regarding claims 2 and 11: Fohl discloses an optical display is used as an additional component in order to display information from the surrounding area as well as further information from image data produced by the image processing unit (col. 5, lines 34-36).

Regarding claims 3 and 12: Fohl discloses the night vision system interchanges information with vehicle-internal systems, and a suitable interface is used as an additional component for this purpose (col. 3, lines 5-28).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 4-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fohl et al. (US 6,429,429) in view of Ohkawara et al. (US 6,720,938).

Regarding claim 4: Fohl et al. discloses the control signal is represented by the image data supplied from the image processing unit (col. 5, lines 34-36). Fohl et al. does not disclose switching off the display automatically. Ohkawara et al. discloses the automatic activation of the display from off to on or vice versa to prevent obstruction or irritation to the driver (col. 11, lines 47-55; col. 12, lines 51-56). At the time of the invention, it would have been obvious to control the display as taught by Ohkawara et al. in a system as disclosed by Fohl et al. to avoid irritation to the driver's eye as well as providing the attraction to the driver when an alarm condition exists.

Regarding claim 5: Ohkawara et al. discloses ON/OFF switch (Fig. 6); thus the switch is a request for turning on/off the night vision functionality.

Regarding claim 6: Ohkawara et al. discloses the control signal is generated on the basis of communication with other vehicles, and communication is intended to take place using components of the night vision system (col. 5, line 57-col. 6, line 25). Ohkawara et al. also discloses the ON/OFF switching of the optical display (Figs. 2, 3).

Regarding claim 7: Ohkawara et al. discloses the control signal is generated by the vehicle-internal systems, the night vision system is switched on (col. 5, lines 15-67); and the automatic activation of the display from off to on or vice versa to prevent obstruction or irritation to the driver (col. 11, lines 47-55; col. 12, lines 51-56).

***Allowable Subject Matter***

Claims 8 and 9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art of Marinelli et al. (US 6,795,237), David et al. (US 7,733,464), Seger et al. (US 7,693,344), Hara et al. (US 7,045,759) and Klapper et al. (US 5,729,016) are cited to show a variety of night vision systems.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Toan N. Pham whose telephone number is (571) 272-2967. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Benjamin C. Lee can be reached on (571) 272-2963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2612

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Toan N Pham/  
Primary Examiner, Art Unit 2612  
3/23/11



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